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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/412,362 10/05/99 JENDICK

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EXAMINER
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QM12/0123

HUYNH, L	ART UNIT	PAPER NUMBER
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3721

DATE MAILED:

01/23/01

12

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/412,362

Applicant(s)

JENDICK, MANFRED

Examiner

Louis K. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 44-91 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-57, 61-76 and 80-91 is/are rejected.
- 7) ☒ Claim(s) 58-60 and 77-79 is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 - 11.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Acknowledgement***

2. Applicant's cancellation of claims 1-43 in paper No. 9 is acknowledged. New claims 44-91 are now pending for prosecution on the merits.
3. The request to replace the current abstract with a new abstract in paper No. 9 has not been entered for the separate attached page containing the new abstract is not found.

### ***Specification***

4. The disclosure is objected to because of the following informalities:
  - "computerised"; "immobilised"; etc. (various places in the specification and the claims) should be changed to: --computerized--; --immobilized--; etc.;
  - "In" (page 8, line 25) should be changed to: --It--;
  - "an" (claim 48, line 2) should be changed to: --a--;
  - "one of" (claim 81, line 1) should be deleted.

Appropriate correction is required.

### ***Claim Objections***

5. Claims 87 and 88 should be rewritten in an independent form for the claims are drawn to different scopes of invention, in particular to a can end and a can respectively, and are not further limiting the claim from which they depend.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. Claims 44, 56-57, 61-63, 74-76 and 81-91 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller et al. (6,080,958).

Miller et al. discloses a method and an apparatus for manufacturing articles to be included in cans comprising the steps of: intermittently feeding a metal strip (312) from a supply (252) into an article forming unit (248) using a strip feeder/guide (244) positioned between the supply and the article forming unit; and providing the metal strip with laser engravings (326's) from a laser unit (222) when the metal strip is in an immobilized condition (col. 7, lines 26-30) and before the metal strip is fed into the article forming unit (col. 7, lines 30-34) where the articles are formed; the laser unit (222) being arranged between the metal strip and the article forming unit (Figure 2A) and controlled by a computer (236) in communication with the laser unit.

Regarding claims 61-62 and 81-88, Miller et al. disclose an opening tab (116) having a laser marking (118) fastened on an end of a can (128); the opening tab having an opening and the markings being positioned on other portions including underside of the tab (col. 9, lines 1-12); the markings including the markings indicating time and/or date of manufacture, filling, sealing, etc. (col. 9, lines 49-51).

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8. Claim 80 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Miller et al. (6,080,958).

Miller et al. disclose other alternative embodiments where the laser unit can be used for marking tabs after cutting or after attachment of the tabs to containers (col. 9, lines 59-65). It would have been obvious to a person with an ordinary skill in the art that the laser unit of Miller is an add-on feature and, therefore, is disconnectible without interfering with the operation of manufacturing opening tabs to be included in cans.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 45 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (6,080,958).

The exact depth of the laser engravings/markings is obvious as a matter of engineering choice since it does not solve any stated problem and thus does not patentably distinguish from the applied prior art.

11. Claims 46 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. in view of Kwon (6,160,835).

Miller et al. the specific teaching of the laser engravings being generated using a beam of laser radiation in the near IR (infrared) wavelength range. Kwon teaches a preferred method of laser engraving using a laser beam in the near IR wavelength range (col. 6, lines 44-56) for

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marking metal. It would have been obvious to a person with an ordinary skill in the art, at the time of the invention, to have modified the method and apparatus of Miller et al. by generating a laser beam in the near IR wavelength range, as taught by Kwon, for marking metal strip.

12. Claims 47-55 and 66-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. in view of Kwon as applied to claims 46 and 65 above, and further in view of Kobsa (6,163,010).

The method and apparatus of Miller et al. modified by Kwon disclose all of the claimed subject matter but lack the specific teaching of a diode laser pumped Nd:YAG laser.

Kobsa discloses a laser system for laser cutting materials comprising: a diode laser pumped Nd:YAG; a laser cavity defined by two end mirrors; and optical elements for improving the laser beam quality; lens system for expanding, collimating, and focusing the laser beam; wherein the optical elements are for selecting modes such as TEM<sub>00</sub> (col. 2, line 48-59).

It would have been obvious to a person with an ordinary skill in the art, at the time of the invention, to have further modified the Miller et al. method an apparatus by providing a diode laser pumped Nd:YAG laser system, as taught by Kobsa, so that the generated laser beam can be adjusted properly in order to mark high quality markings on the metal strip.

Note that the Kobsa diode pumped laser Nd:YAG laser system generates the laser beam in the form of pulsed laser radiation (col. 3, lines 15-67). Further, the Kobsa laser system operates with the wavelength of 1.064 mm (col. 3, line 67) which is substantially the wavelength of IR.

*Allowable Subject Matter*

13. Claims 58-60 and 77-79 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

14. Applicant's amendment filed on Nov 6, 2000 (paper No. 9) and submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on Dec 8, 2000 (paper No. 10) prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (703) 306-5694. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

LH  
January 18, 2001



PETER VO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700